

FHFA's Request To Compel Credit Suisse to Produce Compensation-Related Documents

quinn emanuel trial lawyers | new york

51 Madison Avenue, 22nd Floor, New York, New York 10010-1601 | TEL: (212) 849-7000 FAX: (212) 849-7100

WRITER'S DIRECT DIAL NO.
(212) 849-7243

WRITER'S INTERNET ADDRESS
christinechung@quinnemanuel.com

October 24, 2013

VIA ELECTRONIC MAIL

Hon. Denise L. Cote Daniel Patrick Moynihan
United States Courthouse 500 Pearl Street, Room
1610 New York, NY 10007-1312

Re: FHFA v. Credit Suisse Holdings (USA), Inc., No. 11-CV-6200 (DLC)

Dear Judge Cote:

We write on behalf of plaintiff FHFA respectfully to request the Court to compel Defendants (collectively, "Credit Suisse") to produce compensation-related documents. The parties have met and conferred and are at an impasse on this matter.


Credit Suisse agreed last fall, as did other Defendants, to resolve their objections to FHFA's Second Document Request No. 35,¹ regarding Defendants' compensation records, by producing documents relating to incentive-based compensation policies and procedures for Credit Suisse employees who worked on the Securitizations and to actual compensation paid to Credit Suisse custodians.²

[REDACTED]

Credit Suisse should be ordered to comply with its agreement and produce the documents relating to incentive-b[REDACTED]ny. Credit Suisse claims that it understood volume-based compensation to be something distinct from incentive-based compensation, but this distinction is, first, not one that even Credit Suisse has previously made.

¹ [REDACTED]

² [REDACTED]



Credit Suisse has admitted that it cannot substantiate that there was any difference between incentive-based compensation and volume-based compensation. When asked during a recent meet and confer session if Credit Suisse was denying that employee performance and bonuses were affected by volumes of loans purchased and sold, counsel responded that she did not know. Other Defendants in the FHFA Actions have produced documents relating to employee compensation based on performance, including group profitability or performance.⁵ Credit Suisse is improperly withholding both the policies and procedures relating to incentive-based compensation and the documents reflecting actual compensation of the employees.⁶ FHFA respectfully requests that Credit Suisse be compelled to fulfill the agreement it made and produce these documents.

³



⁴



⁶



FHFA is available to discuss this matter at the Court's convenience.

Respectfully submitted,

/s/ Christine H. Chung
Christine H. Chung

cc: All Counsel of Record

/ 1